IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 85 OF 1993

Narayan Bhikaji More
Indian Inhabitant, resident
of Village Borgaon Khurd,
Taluka Khalapur, Dist.Raigad .. Petitioner
(Org.Claimant)

Vs.

1. The Special Land Acquisition
Officer, Kal Project, Roha,
District Raigad.

2. The State of Maharashtra .. Respondents

Mr. Rajiv Patil with Miss. Seema Sarnaik for Petitioner.
Ms. G.P. Mulekar, AGP for Respondents.

CORAM: B.H. MARLAPALLE, J.

Date : July 19, 2005.

ORAL JUDGMENT:

1. The petitioner's agricultural land came to be acquired by the State Government for Kal Project at Roha in Raigad District and the Land Acquisition Officer passed his award on 3/1/1992 when the petitioner-land owner was not present. He received the award amount on 15/2/1992 and applied for a certified true copy of the award on 6/2/1992. On

31/3/1992 he obtained a certified true copy and forthwith submitted an application under Section 18 of the Land Acquisition Act, 1894 to the Collector. The Land Acquisition Officer rejected the said application vide his communication dated 2/9 July 1992 on the ground that there was delay. The petitioner, therefore, submitted a fresh clarificatary application on 6/8/1992 and by communication dated 9/10/1992 he was informed that the application submitted under Section 18 of the Act was already rejected on 2/9 July 1992 for the reasons given therein was final. This revision application challenges the said order of the Collector rejecting to entertain the application submitted under Section 18 of the Act for enhancement of compensation.

2. Mr. Patil, the learned counsel for the petitioner submitted that when the claimant was not before the Collector on 3/1/1992, he was not aware of the terms of the award and, therefore, before he received the payment on 15/2/1992 he had applied for the certified true copy of the award on 6/2/1992 itself and such a copy was made available to him for

the first time on 31/3/1992 and on the same date the claimant submitted an application for enhancement of the compensation. Therefore, as per Mr. Patil, the period of limitation of six weeks must be counted either from 15/2/1992 or 31/3/1992 and if so counted, the application submitted by the claimant was in time. Mr. Patil referred to the provisions of Section 53 of the Act and submitted that the provisions of C.P.C. shall apply to all proceedings under the Act.

3. Section 18(2) of the Act reads as under :-

> **18. Reference to Court**. - (1) .....
>
> (2) The application shall state the grounds on which objection to the award is taken:
>
> Provided that every such application shall be made, -
>
> (a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from

the date of the Collector’s award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under Section 12, sub section (2), or within six months from the date of the Collector’s award, whichever period shall first expire.

Mr. Patil also submitted that as the award was made available to the claimant on 31/3/1992 he was entitled to file the application under Section 18 within a period of six months from the said date.

4. The provisions of limitation as set out under the proviso to Section 18(2) of the Act are unambiguous. Proviso (a) would not be attracted in the instant case but certainly the proviso (b) below sub section (2) of Section 18 would be attracted. The first part of proviso (b) states that the limitation period for making application is within six weeks from the receipt of notice under Section 12(2) of the Act

from the Collector and in the absence of receipt of such notice the second part would operate, but if the notice has been served then whichever period expires first shall have to be taken into consideration for counting the limitation.

5. A Full Bench of this Court in the case of **Suresh Marutrao Jadhav vs. State of Maharashtra and anr. (Civil Revision Application No.599 of 1992)** has already decided the issues which are relevant for deciding this application. The Full Bench held that the Collector while referring the application submitted under Section 18 of the Act does not act as a court and, therefore, reliance placed on the provisions of Section 53 of the Act by Mr. Patil cannot be considered. The limitation period shall count from the date the notice under Section 12(2) of the Act was received by the claimants in case they were not present before the Collector or they were not represented before the Collector on the date the award was made. In the instant case undoubtedly the notice under Section 12(2) of the Act issued by the Land

Acquisition Officer was received by the claimant on 20/1/1992 and, therefore, the period of limitation of six weeks would commence from that date. If so counted, the application submitted under Section 18 of the Act on 31/3/1992 was certainly beyond limitation.

6. The Full Bench of this Court in the case of Suresh Marutrao Jadhav vs. State of Maharashtra and anr. (Supra) also held that the provisions of Section 5 of the Limitation Act are not applicable to an application submitted under Section 18 of the Act and, therefore, there is no scope to condone the delay as well. Under the circumstances, there is no case made out to interfere with the impugned order in this revision application.

7. Hence, the revision application fails and the same is hereby dismissed. Rule discharged but without any order as to costs.

(B.H. Marlapalle,J.)